

EIGHTEENTH JUDICIAL DISTRICT COURT

PARISH OF WEST BATON ROUGE

STATE OF LOUISIANA

THE STATE OF LOUISIANA,
WILLIAM KIMBALL, H. M. KIMBALL,
JR. AND ELIZABETH KIMBALL
LEWIS, INDIVIDUALLY AND AS
REPRESENTATIVES OF A CLASS OF
THOSE SIMILARLY SITUATED

VERSUS

NO. 26,334 "C"

SPRINT COMMUNICATIONS,
COMPANY, L.P., ET AL
SOUTHWEST LOUISIANA

* * * * *

CONSOLIDATED WITH

THE STATE OF LOUISIANA AND
XCL LTD., ET AL, INDIVIDUALLY
AND AS REPRESENTATIVES OF A
CLASS OF THOSE SIMILARLY
SITUATED

NO. 26,304 "C"

VERSUS

WILTEL, INC., ET AL

* * * * *

The deposition of LOWELL SIBILLE was
taken in connection with the captioned cause,
pursuant to the following stipulation, before
Cheryl Venable, Certified Court Reporter, at the
offices of Mr. Michael R. Mangham, 406 Audubon
Blvd., Lafayette, Louisiana, on Tuesday, the 17th
day of September, 2002, beginning at 10:00 a.m.

ORIGINAL

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

EXHIBIT

3

A P P E A R A N C E S

MR. VICTOR MARCELLO
Talbot, Carmouche & Marcello
Attorneys at Law
P.O. Box 759
Gonzales, LA 70707

MR. CHRISTOPHER L. WHITTINGTON
Attorney at Law
P.O. Box 3035
Baton Rouge, LA 70821-3035

MR. SCOTT A. POWELL
AND MR. DON MCKENNA
Hare, Wynn, Newell & Newton
Attorneys at Law
The Massey Building
Suite 800
2025 Third Avenue North
Birmingham, AL 35203-3331

MR. MICHAEL R. MANGHAM
Mangham & Fuqua
Attorney at Law
406 Audubon Boulevard
Suite A
Lafayette, LA 70503-2613

MR. JOHN F. OLINDE
Chaffe, McCall, Phillips,
Toler & Sarpy
Attorneys at Law
2300 Energy Centre
1100 Poydras Street
New Orleans, LA 70163-2300

ERIN MACKEY

Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

2

S T I P U L A T I O N

It is hereby stipulated by and between
counsel for plaintiff and counsel for defense that
the deposition of

LOWELL SIBILLE

is being taken before Cheryl Venable, Certified
Court Reporter, by counsel for the defense for
discovery purposes, pursuant to notice and to the
provisions of the appropriate statutes of the
Louisiana Code of Civil Procedure.

The parties hereto waive all formalities
in connection with the taking of said deposition,
including the reading and signing thereof, except
the swearing of the witness, and the reduction of
the questions and answers to typewriting.

Counsel for all parties reserve all
objections, including the form of the question and
the responsiveness of the answer, at the time of
taking said deposition, but they also reserve
the right to make objections at the time said
deposition or any part thereof may be offered in
evidence, with the same rights as if the testimony
had been taken and given in Open Court.

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

I N D E X

EXAMINATION BY MR. POWELL 5

EXHIBITS

Exhibit No. 1 (Agreement).

OBJECTIONS

BY MR. MARCELLO. 6, 45

BY MR. OLINDE. 43, 44, 45

ERIN MACKEY

Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LOWELL SIBILLE

after having been duly sworn, was examined and did
testify as follows:

EXAMINATION

BY MR. POWELL:

Q Give us your name, please, sir.

A Lowell A. Sibille, Jr.

Q Mr. Sibille, what is your profession?

A Funeral director.

Q You have been deposed already in this case;
have you not, sir?

A Yes, sir.

Q And that was, if I recall correctly, June of
1998?

A That's right.

Q In connection with -- or let me back up and
ask it this way. Since June of 1998 when
you gave your last deposition in this case,
what have you done in terms of your
responsibilities as a class representative
in connection with furthering the
prosecution of this litigation?

A I spoke to Mr. Whittington, my attorney, on
several occasions, but as far as for
actually doing anything else, I don't think

1 I did anything else. Just called him to
2 find out how the case was going.

3 Q Am I understanding you correctly, then, that
4 since June of 1998, you would inquire of Mr.
5 Whittington on occasion to determine the
6 status of the litigation?

7 A The status of the litigation.

8 Q And what was going on?

9 A That's correct.

10 Q Other than that, that would be the extent of
11 the activities?

12 A As far as I know, yeah, that's it.

13 Q Now, I was unclear from your last deposition
14 when you actually were named as a class
15 representative in the litigation. Can you
16 shed some light on that for me?

17 MR. MARCELLO: Object to the form of
18 the question. It's a matter of
19 record, but go ahead. You can
20 answer.

21 A I would say in 1998 actually. That was when
22 I was named as a representative in the class
23 action suit.

24 MR. POWELL: (CONTINUING)

25 Q When you were named as a class

1 representative in 1998, did you read the
2 complaint that had been filed in connection
3 with this case?

4 A I didn't read it. I relied on my attorney
5 to tell me what the suit was basically based
6 upon.

7 Q You did not read the complaint; is that
8 right?

9 A I don't think I read it, no.

10 Q Have you ever read it?

11 A The complaint itself?

12 Q Yes, sir.

13 A No.

14 Q Or any amendments to the complaint? Have
15 you ever read any of the amendments?

16 A No.

17 Q When you came on board as a class
18 representative in 1998, did you understand
19 what your rights and obligations were as a
20 class representative to the absent class
21 members?

22 A Yes.

23 Q And describe what you understood those to
24 be.

25 A I understood I was going to be a lead

1 witness for the class action suit and that I
2 was to be deposed and if necessary go to
3 court if it went that far.

4 Q Now, in terms of your responsibilities as
5 being, as you described it, a lead witness,
6 what responsibilities did you have in
7 connection with being a lead witness as you
8 understood them to be?

9 A What responsibilities?

10 Q Yes, sir.

11 A As I said before, it was to -- if called
12 upon to be deposed, if I was called upon,
13 which I did, I was deposed. If I had to be
14 relied upon to go to court, I was told that
15 I would have to go to court. Other than
16 that, I don't know what else to say about,
17 you know, what my role was. I mean, I
18 wasn't the only one. There were other
19 people that were also witnesses.

20 Q And who were they, please?

21 A I think one was a Katherine McClellan
22 Sibille and then a Mrs. -- she was from
23 Eunice, but I can't think of her name. It
24 was the coach's wife and I can't think of
25 who she was. I think she was also a

1 witness. Those were the three that were
2 there when I was in Baton Rouge. You know,
3 otherwise, I have no idea who the other
4 witnesses would be.

5 Q Other than witnesses, I'm talking just about
6 class representatives now.

7 A Well, class representative then.

8 Q Now, I looked at your last deposition as
9 well and is there Sprint fiber on your
10 property?

11 A Yes, sir.

12 Q Have you identified its location?

13 A I identified the marker that comes out of
14 the ground that signified there's an
15 underground fiber optic cable in that area.

16 Q When did you do that?

17 A I did it after the deposition.

18 Q As I recall, in June of 1998 when you were
19 deposed, you had not specifically seen any
20 markers or identifying marks about cable on
21 your property; is that right?

22 A That's correct.

23 Q And did you identify the marker as being a
24 Sprint marker?

25 A Yes, sir.

1 Q And you said it was after your deposition.
2 Can you give me some idea timewise as to
3 when that was done?

4 A Maybe a couple of weeks after. Or maybe on
5 the way home actually. That could have been
6 it. On the way back from Baton Rouge down
7 190 I stopped at the property.

8 Q When you agreed to come on board as a class
9 rep in this litigation, did you understand
10 that there was certain relief that you were
11 seeking on behalf of yourself and also the
12 absent class members?

13 A Yes, sir.

14 Q What relief was that?

15 A The relief from the people trespassing on
16 our property, on our right-of-way.

17 Q And what form of relief were you seeking?

18 A Monetary.

19 Q Did you have any quantification or basis for
20 determining or seeking any type of monetary
21 relief?

22 A Did I have -- repeat the question.

23 Q Yes, sir. What sort of monetary relief were
24 you looking for?

25 A At that particular time, I had no idea what

1 the monetary relief would be. I mean, my
2 statement in the deposition was I would take
3 anything that -- the most I could get.

4 Q Right. I remember that.

5 A Yes, sir. Whatever the law allowed, that
6 would be what I would take. I would have no
7 idea what it would be otherwise.

8 Q Did you also say in your deposition that you
9 were seeking a percentage of the profits
10 that Sprint was receiving on the cable that
11 went through your property?

12 A Yes, sir.

13 Q And did you also make a claim that there was
14 some value to the presence of the cable on
15 your property that you were seeking monetary
16 compensation for as well?

17 A Value meaning they had used my property for
18 their personal gains?

19 Q Value of the servitude.

20 A Yes, sir.

21 Q You were seeking that as well?

22 A Well, yeah.

23 Q So at least based on your last deposition in
24 June of 1998, am I correct in understanding
25 that the relief you were seeking was, of

1 course, number one, the most you could get
2 allowed by law and that could have been made
3 up in the form of profits?

4 A Profits derived from the company using my
5 property without my express permission.

6 Q And the value of the servitude or the
7 utilization of your property?

8 A Utilization of said property.

9 Q Any other relief that you were seeking?

10 A I don't think so.

11 Q Now, has that changed in any respect since
12 you gave your deposition; that is, the
13 relief you've been seeking for the absent
14 class members?

15 A It would probably be the same exact relief.

16 Q Up through today?

17 A Yes, sir.

18 Q In your role as class rep in connection with
19 the relief that you are seeking from Sprint,
20 have you identified or has information been
21 made available to you as to what profits
22 Sprint has made on the cable that has gone
23 through your lines, your property?

24 A No, sir.

25 Q Have you asked for that information?

1 A No.

2 Q In your discussions -- or have you had any
3 discussions with the other class
4 representatives that you identified for me
5 earlier?

6 A Katherine Sibille who is married to a cousin
7 of mine.

8 Q In your discussions with Mrs. Sibille, did
9 you share what ideas the two of you may have
10 had about getting the monetary relief from
11 Sprint?

12 A I don't think so.

13 Q You didn't talk about that, what you were
14 each seeking?

15 A No.

16 Q You would not be able to tell me, then, that
17 she would concur with you that you're
18 seeking profits that Sprint had made, the
19 value of the servitude and as much as --

20 A Basically I never spoke to her at all. I
21 spoke to her husband. And he indicated that
22 he would like to know how it would work. If
23 the suit had been settled, what would it be
24 based upon. And at that time I said that it
25 would probably be based upon the profits

1 made. You know, with the three lines, we
2 would get a certain amount of money because
3 of the profits that the people made and we
4 didn't give our okay to do it.

5 Q Did he consent to that approach as far as
6 you know?

7 A I mean, you're talking about four years ago.
8 I suppose so.

9 Q Well, in connection, then, with your seeking
10 profits associated with Sprint's utilization
11 of your property and your -- you have not
12 gotten that information as to what those
13 profits are, have you, sir?

14 A No.

15 Q Do you not think it important from the
16 standpoint of your job as class
17 representative in evaluating whether or not
18 to settle this claim to get that profit
19 figure from Sprint so you can evaluate
20 whether or not what you were seeking is
21 actually the basis on which this claim had
22 been settled?

23 A It would probably have been okay to do so,
24 but I left it in the hands of my attorneys
25 to file the suit and go against the company.

1 So I really wasn't that concerned about what
2 the exact profits were.

3 Q Why?

4 A If the profits were a hundred billion
5 dollars and the judge allowed you X amount
6 of dollars in settlement, it makes no
7 difference what the ultimate amount of
8 profit the people made. You know, the
9 settlement would be a fair and just
10 settlement I figured, so why would I have to
11 know exactly what the profits were.

12 Q Did you make a determination that this was a
13 fair and just settlement?

14 A After I learned what the settlement was,
15 yes.

16 Q So the settlement had already been
17 effectuated before you evaluated it and
18 determined it would be fair and just?

19 A The settlement -- when the settlement --
20 when I talked to Mr. Whittington about what
21 the settlement was, I thought it was a fair
22 settlement. It wasn't based on how much the
23 actual net profit that the companies made,
24 you know, by running their lines through my
25 property. It was just that he called and

1 said the settlement was for 55 million
2 dollars and I thought it was a just
3 settlement.

4 Q So the information you got was the case has
5 been settled for 55 million dollars?

6 A Yes.

7 Q And based on that, you said that's fair and
8 just?

9 A As far as I was concerned, it was.

10 Q Why?

11 A Why?

12 Q Why do you think it's fair?

13 A Because the group of attorneys that handled
14 it said they thought by, you know, comparing
15 it to other settlements, they thought it was
16 a fair and just settlement. I relied on
17 their judgment.

18 Q You did not make any independent
19 determination on your own as a class
20 representative to evaluate the fairness or
21 reasonableness of this settlement; is that
22 right?

23 A That's correct.

24 Q Now, are you familiar with whether or not
25 there had been other depositions taken in

1 this case other than yours?

2 A The only three depositions I know of are the
3 two that I mentioned prior to this question
4 you just asked me. Katherine Sibille and
5 Coach Nagata's wife.

6 Q Those are the only ones you're aware of?

7 A That's the only ones that I'm aware of.

8 Q So I take it that because those are the only
9 ones you're aware of, you didn't attend any
10 other than perhaps yourself; is that right?

11 A That's it.

12 Q Have you looked at any documents or
13 pleadings in connection with your role as
14 class representative?

15 A No, sir.

16 MR. MARCELLO: That settlement paper,
17 the settlement document.

18 A The settlement documents, yeah. I didn't
19 know if that's what you meant.

20 MR. POWELL: (CONTINUING)

21 Q I'm going to get there. I wasn't there
22 quite yet.

23 MR. MARCELLO: I believe he got
24 confused with the word pleading. He
25 was given the settlement document.

1 MR. POWELL: (CONTINUING)

2 Q But up until the settlement, you have not
3 looked at any pleadings or documents or
4 discovery that has been generated in this
5 litigation; is that right?

6 A That's correct.

7 Q In your conversations with your counsel, did
8 they involve any input from you on strategy
9 of prosecuting this litigation?

10 A No, sir.

11 Q And I take it you've not looked or commented
12 or had any input in any of the briefing that
13 has been done in the case; is that right?

14 A That's correct.

15 Q Are you aware that there was either one or a
16 series of mediation events that took place
17 in this litigation?

18 A By that meaning what?

19 Q Well, where the lawyers sit down with their
20 clients and try to resolve the case.

21 A The lawyers sitting with their clients, no,
22 I'm not aware of it.

23 Q You're not aware of that?

24 A No, sir.

25 Q So you never attended, I take it, any

1 meetings wherein there were efforts made at
2 settlement or resolution of the litigation?

3 A No, sir.

4 Q And you were not made aware of the fact that
5 those meetings or sessions were taking
6 place; is that right?

7 A That's right.

8 Q And I take it you never were invited to
9 attend any of those sessions?

10 A No, sir.

11 Q Do you know if any of the other class
12 representatives that had Sprint cable on
13 their property participated in any mediation
14 sessions?

15 A Not to my knowledge, but I wouldn't know for
16 sure.

17 Q When you -- well, let me ask it this way,
18 Mr. Sibille. When did you get the phone
19 call that informed you of the terms of the
20 settlement?

21 A When?

22 Q Yes, sir.

23 A Oh, God. It was in 2001. The latter part
24 of 2001 I suppose.

25 Q And who called you?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 A Mr. Whittington.

2 Q What did you understand the terms of the
3 settlement to have been?

4 A I understood the settlement to be 55 million
5 dollars which was from WorldCom. And what's
6 the other one? MCI and WorldCom, 55 million
7 dollar settlement which covered, I think, a
8 little over eleven hundred miles of cable.

9 Q You mean WorldCom and Sprint?

10 A No. I said MCI and WorldCom.

11 MR. MARCELLO: MCI, WorldCom and
12 Sprint.

13 THE WITNESS: All three?

14 MR. MARCELLO: Yeah.

15 MR. POWELL: (CONTINUING)

16 Q Did you know it was all three?

17 A I had no idea. I thought it was the two.

18 Q Just the two. Okay. And did you think it
19 was just the two until your lawyer just
20 mentioned it was Sprint, also?

21 A I thought it was the two. I had no idea it
22 was the three, no.

23 Q So to this day you don't know it's all
24 three, right?

25 MR. MARCELLO: I think he's getting

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 confused, Scott.

2 MR. POWELL: Let's let him answer.

3 MR. MARCELLO: Okay.

4 A The reason I thought I was here because you
5 were representing Sprint and I was having to
6 be deposed because of them, but I mean --

7 MR. POWELL: (CONTINUING)

8 Q Who do you understand is paying up to 55
9 million dollars?

10 A Well, now I understand it must be all three.

11 Q And when did you come to that understanding?

12 A About five minutes ago.

13 Q Or a minute ago?

14 A Well, a minute ago.

15 Q And up until a minute ago, you thought the
16 up to 55 million was being paid only by MCI
17 and WorldCom; is that correct?

18 A Yes, sir.

19 Q Now, up until or throughout this process,
20 Mr. Sibille, did you have any input at all --
21 let me back up and ask it this way. Other
22 than the payment of 55 million dollars, were
23 you apprised of any other terms of the
24 settlement in that conversation?

25 A Any other terms of the settlement?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 Q Yes, sir.

2 A No. You mean as to what I would get as a

3 plaintiff?

4 Q We'll start there, yes. As to what you

5 would get as a plaintiff?

6 A Basically \$5.50 per running foot of the

7 property from each company.

8 Q \$5.50 per foot?

9 A That would be my portion of the settlement.

10 Q From each company?

11 A Yeah. Which means Sprint, MCI -- MCI and

12 WorldCom.

13 Q What was your understanding? That MCI would

14 pay 5.50 and WorldCom would pay 5.50?

15 A That's what I understood.

16 Q So that would be \$11.00 per foot?

17 A Yes, sir.

18 Q And did you know how many feet of cable you

19 had on your property?

20 A On my particular property, I think about

21 1600 feet.

22 Q And were you told or did you have any

23 understanding as to what you had to do in

24 terms of a plaintiff in order to qualify or

25 to get that \$11.00 a foot for 1600 feet?

1 A You'd have to get an abstract done on your
2 property to see if, indeed, we had the
3 right-of-way.
4 Q Okay.
5 A That anyone had trespassed on our property.
6 Q And you were told that in the first
7 conversation?
8 A You're talking about my first conversation
9 with --
10 Q About the settlement?
11 A No, sir, not the first conversation.
12 Q What I want to know is about this first
13 conversation when you were apprised that the
14 case had been settled.
15 A Oh, the case had been settled?
16 Q Yes, sir.
17 A Oh, I'm sorry. I went back to 1998.
18 Q No, sir.
19 A So what's your question again now?
20 Q My question, we started off that you were
21 apprised that the case had been settled I
22 believe you said in the latter part of 2001?
23 A Yes, sir. That's what I thought, yeah.
24 Q And you got a phone call from Mr.
25 Whittington to that effect?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 A Yeah.

2 Q And you understood that the case had been

3 settled for 55 million dollars?

4 A Correct.

5 Q And you thought at that time that that money

6 was going to be paid by MCI and WorldCom,

7 correct?

8 A Yeah, correct.

9 Q And that you discovered just several minutes

10 ago that Sprint was participating in that

11 settlement as well, correct?

12 A Correct.

13 Q Now, in that first conversation in the

14 latter part of 2001 when you were told that

15 the case had been settled, were you also

16 informed as to what the terms of the

17 settlement were in addition to the 55

18 million dollar, up to 55 million dollar

19 payment?

20 A In terms of what the settlement was in

21 addition to the 55 million?

22 Q Yes, sir.

23 A I didn't know there was anything other than

24 the 55 million.

25 Q Am I correct, because I want to be clear on

1 this --

2 MR. MARCELLO: I think he's confused,
3 Scott.

4 MR. POWELL: That's why I want to be
5 clear.

6 MR. POWELL: (CONTINUING)

7 Q Were you given any of the terms of the
8 settlement in the latter part of 2001 when
9 you first were apprised of it other than the
10 fact that defendants were going to pay up to
11 55 million dollars?

12 A Repeat the question. I'm lost.

13 Q Were you given any additional information in
14 the first conversation you had about the
15 case being settled other than the fact that
16 this class was going to be paid up to 55
17 million dollars?

18 A No.

19 Q When was it that you first were told what
20 you were going to get as a class
21 representative out of this settlement?

22 A That probably would have been 2002.

23 Q Approximately when?

24 A Maybe -- I don't know. Maybe March of 2002.
25 I'm not sure. I'm just guessing.

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 Q Let me take you back, if I can, to the first
2 conversation about the 55 million, okay?
3 A Uh-huh (yes).
4 Q Are you with me?
5 A Yes.
6 Q Were you told how the 55 million was arrived
7 at?
8 A How it was arrived at?
9 Q Yes, sir.
10 A Well, it was a settlement. In other words,
11 it was arrived at due to a settlement.
12 Q I understand that.
13 A Okay. What's the next question?
14 Q The question is were you told how the 55
15 million, how that number came about?
16 A Because of --
17 Q On what was it based?
18 A God, I don't know.
19 Q You don't know?
20 A What was it based on?
21 Q Yes, sir.
22 A I don't think I was told exactly what it was
23 based on.
24 Q Were you told generally?
25 A Based on the fact that the company decided

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 to settle rather than go to court. That's
2 what I was told.

3 Q Were you told why your lawyers agreed to the
4 55 million dollar figure as opposed to a
5 different figure?

6 A No. They just said they thought it was a
7 fair settlement, so it was determined that
8 it should be taken. It was a fair
9 settlement.

10 Q Did you ask any questions as to why they
11 thought it was a fair figure at that time?

12 A Because they said that according to other
13 settlements, you know, that had been settled
14 in the past, that this seemed to be a fair
15 and just settlement.

16 Q And did they give you any specifics? And
17 this is the first conversation I'm talking
18 about, okay? We're still square on that,
19 right?

20 A (Witness nods head affirmatively.)

21 Q Correct, sir?

22 A Yeah. Sorry.

23 Q You know you have to answer out loud.

24 A Yes, sir.

25 Q So you were told in that first conversation

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 that based on other settlements, it was in
2 their view, that is the lawyers' view, it
3 was fair?

4 A No, it's not the first conversation. The
5 second conversation. I'm sorry.

6 Q So the first conversation you were told 55
7 million and that --

8 A That's correct. That was the end of the
9 story. The second conversation is when I
10 was told.

11 Q And when was the second conversation?

12 A I think it was like in March of 2002.

13 Q This was when you found out about your
14 portion?

15 A Yeah.

16 Q And in that conversation, you were told that
17 in the lawyers' view, it was fair based on
18 other settlements?

19 A That's correct.

20 Q Did you ask them what other settlements they
21 were comparing it to?

22 A Other infringement on trespassing with
23 either pipelines or fiber optic lines or
24 whatever.

25 Q I understand that, sir. I'm talking about

1 specifically what other settlements that had
2 been made.

3 A Oh, they never mentioned a settlement in
4 particular. They didn't say Exxon settled
5 for such and such, no.

6 Q Did you ask?

7 A No.

8 Q You took their word for it?

9 A As far as I was concerned, I took their word
10 for it.

11 Q Have you ever looked at settlement terms in
12 any fiber optic settlements around the
13 country?

14 A No, sir.

15 Q Now, in the first conversation back in the
16 latter part of 2001, were you told that the
17 settlement was done and that the lawyers
18 were going through a process of setting up
19 notice provisions to let the class know
20 about the settlement?

21 A I think so, yeah.

22 Q In other words, you came away from that
23 conversation in the latter part of 2001
24 understanding that settlement terms were
25 complete and finalized at that time?

1 A Basically, yeah.

2 Q Were you asked in that first conversation
3 whether or not you thought it was a fair and
4 reasonable settlement?

5 A Was I asked personally if I thought it was?

6 Q Yes, sir.

7 A I'm not sure if they asked me. I think I
8 asked them, actually, whether I thought they
9 thought it was a fair and just settlement.

10 Q So, in other words, then, in 2001 you had
11 not looked at the settlement terms,
12 evaluated the settlement terms and come to
13 an independent conclusion that the
14 settlement was fair, just and reasonable?

15 A No. No.

16 Q In the conversation you had in, I believe,
17 March of 2002, that's when you first were
18 informed as to what your recovery was going
19 to be in this case; is that correct?

20 A That's correct.

21 Q Now, between the latter part of 2001 and
22 March of 2002, did you have any conversation
23 with any of the other class representatives
24 as to the settlement terms?

25 A Woody Sibille, Katherine Sibille's husband.

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 Q The same gentleman you referred to earlier?
2 A Yes.
3 Q And tell me what conversation you had with
4 Mr. Sibille.
5 A I think he called me and wanted to know if I
6 knew in essence what the monetary payoff
7 would be to us. And I said that I really
8 didn't know and that I'm sure that we would
9 be finding out within a short period of
10 time.
11 Q So you didn't really have any information
12 you could share with him between --
13 A Well, we were given wrong information by I
14 don't know who. A gentleman by the name of
15 Jimmy Sylvester who works in the clerk of
16 court's office in Opelousas said that he had
17 heard it would be like \$200.00 per running
18 foot of the property, which was absolutely
19 incorrect.
20 Q When did you hear that?
21 A Around March or April of 2001.
22 Q Of 2001?
23 A I mean 2002. I'm sorry. Not 2001.
24 Q And do you know where Mr. Sylvester got his
25 information?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 A I have no idea.

2 Q But the information you got from your

3 counsel in that first conversation of 55

4 million dollars to be paid by the defendant,

5 you did have that discussion with Mr. Woody

6 Sibille, is that right, before March of

7 2000?

8 A Before March of 2002?

9 Q 2002. Excuse me.

10 A I had information about the 55 million

11 settlement?

12 Q Right.

13 A Before I talked to Woody Sibille? Yes.

14 Q Did you talk to anybody other than Mr. Woody

15 Sibille?

16 A I don't know these other people. I just

17 know Nagata.

18 Q Other than the 55 million, you didn't have

19 any of the other settlement terms that you

20 could discuss with Mr. Sibille?

21 A No.

22 Q Now, tell me how the conversation came up in

23 March of 2002 with respect to your recovery

24 in the case.

25 A My conversation with what gentleman, who?

1 Q Whoever gave you the information as to what
2 your recovery was going to be.
3 A Per foot you're talking about?
4 Q However they quantified it.
5 A Well, in March of 2002 when I spoke to Jimmy
6 Sylvester, he had the wrong information.
7 Q Okay.
8 A But later on, which might have been in -- I
9 don't know. When everyone received their
10 notification in the mail that, you know, if
11 you were, indeed, a property owner and you
12 wanted to get in on the class action suit,
13 that's when I found out from Mr. Whittington
14 that it would probably be after all expenses
15 maybe 5.50 or 5.65 per foot. But I mean I'm
16 talking about this was in the summer maybe.
17 Q So you first found out about what you were
18 going to get in the summer of 2002?
19 A Probably so, yeah.
20 Q And so the notice that you got in the mail --
21 A In the mail.
22 Q -- is the first time that you were apprised
23 or had the knowledge that the compensation
24 to be paid was going to be, as you said,
25 5.50 to 5.65?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 A Well, it was in the notice.

2 Q I understand that. But my question is
3 that's the first time you were --

4 A That's the first time I actually got the
5 correct information.

6 Q And up until that time, the only incorrect
7 information that you know you got was from
8 Mr. Sylvester?

9 A Was from Mr. Sylvester.

10 Q You hadn't talked to your lawyers about that
11 up until you got the actual notice in the
12 mail; is that correct?

13 A That's correct.

14 Q Now, had you looked at any papers, any
15 documents, any pleadings from the latter
16 part of 2001 when you were first informed of
17 the settlement until the summer of 2002 when
18 you got this notice in the mail informing
19 you of what the compensation was going to
20 be?

21 A No.

22 Q So I take it that the notice again in the
23 summer of 2002, that that's the first time
24 you also saw the complete settlement terms
25 on which this case was attempting to be

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 settled; is that right?

2 A That's right.

3 Q And you got those in the mail as well?

4 A Yeah. We all got them, yeah, as far as I
5 know.

6 Q All class members as far as you know?

7 A That's what it indicated, that all class
8 members would be sent the notice. So I'm
9 surmising they got them.

10 Q Let me go through some things with you right
11 now. In connection with your being informed
12 for the first time in the summer of 2002
13 when you got your notice and the other
14 settlement forms and papers -- and you were
15 not aware of the settlement terms until you
16 got that paperwork, correct, sir?

17 A That's right.

18 Q As a class representative, you did not
19 before the settlement was reached consent or
20 agree that class members making claims for
21 fully qualifying benefits were required to
22 submit abstract documentation; is that
23 right?

24 A Was I informed that I was supposed to submit
25 abstract documentation?

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 Q No, sir. Before the settlement was reached,
2 did you agree and consent that class members
3 making claims for fully qualifying benefits
4 were required to submit abstract
5 documentation?

6 A Oh, sure.

7 Q You did?

8 A Well, that was an understanding, that you
9 had to have an abstract to make sure that --

10 Q Let me back up. Listen to my question,
11 please. Listen to my question, please.

12 MR. MARCELLO: The man was answering
13 the question and you interrupted him.

14 MR. POWELL: (CONTINUING)

15 Q I don't mean to interrupt you.

16 MR. MARCELLO: He was answering the
17 question as to what his understanding
18 was. Were you finished answering the
19 question?

20 THE WITNESS: No.

21 MR. MARCELLO: Tell him what your
22 understanding was.

23 A My understanding was we had to prove, you
24 know, that we actually owned the land
25 beneath the railroad; and in order to prove

1 it, you had to have an abstract done of the
2 property.

3 MR. POWELL: (CONTINUING)

4 Q When did you have that understanding?

5 A When did I have it?

6 Q When did you come to that understanding?

7 A I probably understood it from the very
8 beginning. I mean, how would you be a
9 plaintiff if you didn't know that you
10 actually owned the property beneath the
11 railroad?

12 Q Well, let me ask this now. Did you
13 understand or did you participate -- let me
14 back up. You've already told us that you
15 were not aware of the settlement terms, that
16 is the term on which this case was settled,
17 until you got your notice form and the
18 settlement documents in the summer of 2002.
19 Is that not correct, sir?

20 A Well, that was just the amount of money to
21 be received from the settlement. That had
22 nothing to do with if I understood should my
23 property be -- you know, I had to prove that
24 my property was my own property beneath the
25 railroad. I'm not following you in that

1 case.

2 Q When did you -- you're not following me
3 where?

4 A Well, you will have to repeat the question.
5 I'm lost.

6 Q Well, let's take it back. We'll take it
7 back from where we started, okay. As I
8 understand what you've previously testified
9 to, you were informed the latter part of
10 2001 that the case had been settled for
11 payments of up to 55 million dollars,
12 correct, sir?

13 A In 2002?

14 Q In the latter part of 2001.

15 A Oh, 2001, yes.

16 Q And there were no other settlement terms
17 discussed with you at that time?

18 A When you mean settlement terms, you're
19 meaning having to prove that the property
20 is, indeed, your property?

21 Q Anything with regard to the settlement.

22 A Well, sure.

23 Q What were --

24 A Now I understand the question, but I mean we
25 had to -- we were told that we had to have

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

1 an abstract done of the property to make
2 sure that it was our property underneath the
3 railroad.

4 Q When were you told that?

5 A I was probably told --

6 MR. MARCELLO: Asked and answered.

7 He's already answered the question.

8 A I answered the question already.

9 MR. POWELL: (CONTINUING)

10 Q When were you told that?

11 A I think probably at the very beginning of
12 '98. When I went to the first deposition, I
13 was told.

14 Q I'm talking about in connection with the
15 settlement.

16 A In connection with the settlement?

17 Q Right.

18 A And I was told once again that the property
19 had to have an abstract on the property.

20 Q When?

21 A Probably March of 2002.

22 Q By whom?

23 A Mr. Sylvester.

24 Q Who is Mr. Sylvester?

25 A Jimmy Sylvester that works for the clerk of

1 court's office in Opelousas.

2 Q That's the first time you were told you had
3 to have an abstract in connection with this
4 settlement; is that right?

5 A Oh, in connection with the settlement?

6 Q Yes, sir.

7 A Okay. Yes.

8 Q With the settlement.

9 A With the settlement. Not in connection with
10 the lawsuit itself?

11 Q That's right. In connection with the
12 settlement.

13 A Okay.

14 MR. MARCELLO: He's already answered.

15 MR. POWELL: (CONTINUING)

16 Q In March of 2002?

17 A Yeah.

18 Q So I'll get back to the question. As of the
19 time you were informed of the settlement
20 terms, you did not --

21 A In 2001?

22 Q Yes, sir. Inquire or agree at that time
23 that providing an abstract was going to be
24 part of the settlement terms?

25 A No.

1 Q All right. Now, up until the summer of 2002
2 when you got your notice form and the other
3 settlement documents, had you agreed before
4 the summer of 2002 that class members that
5 would be affected by the settlement did not
6 have any right to appeal a decision made by
7 the claims administrator in connection with
8 this settlement?

9 A Was I informed of that fact?

10 Q Or agree to it?

11 A No.

12 Q Up until the summer of 2002, did you agree
13 that the notice provision that was sent to
14 the class members did not contain the
15 information that the class members did not
16 have a right to appeal a decision of the
17 claims administrator? Did you agree to
18 that?

19 A Repeat the question. By the time you get
20 through with your question, I'm already
21 lost.

22 Q You did not agree that there would be no
23 appeal rights by absent class members of a
24 decision of the claims administrator in
25 connection with the settlement at any time,

1 did you, sir?

2 A No.

3 Q Did you participate or agree prior to the
4 summer of 2002 that the attorneys' fees to
5 be paid in this case were to be no more than
6 18,333,333.00?

7 A Did I participate in that?

8 Q Yes.

9 A No.

10 Q And did you agree that that fee was to be
11 paid before you got --

12 A It was my understanding that the courts had
13 set aside the amount that the attorneys were
14 supposed to receive.

15 Q But you never agreed or participated in a
16 maximum amount that the attorneys would
17 seek?

18 A No.

19 Q Did you participate or agree in the
20 settlement terms that permitted the lawyers,
21 the plaintiffs' lawyers in the case, to
22 apply for and receive up to half of that
23 amount of money, that 18 million dollars,
24 prior to the court approving the terms of
25 the settlement?

1 A No.

2 MR. OLINDE: I'm going to object to
3 that question because that's not
4 accurate. It's a misleading
5 question.

6 MR. POWELL: (CONTINUING)

7 Q Did you agree that the plaintiffs' attorneys
8 could receive in fees up to \$18,333,333.00
9 regardless of the amount that was ultimately
10 paid to the class members?

11 A No.

12 Q If that is a fact, Mr. Sibille, that the
13 plaintiffs' lawyers could receive
14 \$18,333,333.00 regardless of the amount that
15 is ultimately paid to the class members, do
16 you think that is fair, just and reasonable?

17 A I would say no.

18 Q Did you participate or agree to settlement
19 terms which require class members to make an
20 election to stay in the case or opt out of
21 the case before they knew what compensation
22 they were receiving under the settlement?

23 A No.

24 Q Do you think as class representative that
25 requiring an absent class member to make a

1 decision as to whether to elect to remain in
2 the case or opt out of the case before they
3 know what their compensation is to be is
4 fair, just and reasonable?

5 MR. OLINDE: I'm going to object to
6 the form of the question.

7 MR. POWELL: (CONTINUING)

8 Q You can answer.

9 A Repeat the question.

10 Q Do you think a settlement term requiring an
11 absent class member to make an election to
12 stay in the suit or opt out of the suit
13 before that absent class member is apprised
14 of the compensation he or she is receiving
15 is fair, just and reasonable?

16 A Yes.

17 Q Why?

18 A Well, they should have a say-so as to what
19 the outcome of the settlement would be, what
20 their compensation would be.

21 Q I agree with that. My question is this. If
22 the settlement term requires you to decide
23 to stay in the settlement or opt out and
24 file your own case before you know what your
25 compensation is going to be, do you think

1 that's fair, just and reasonable?

2 MR. MARCELLO: I'm going to object to
3 the question as vague, not based on
4 any facts.

5 MR. POWELL: We'll see.

6 MR. POWELL: (CONTINUING)

7 Q Go ahead. You may answer.

8 A Repeat the question. By the time I get it,
9 I'm lost.

10 Q Is a settlement term requiring you to make a
11 decision to stay in the suit --

12 A Me personally?

13 Q Yes, sir. To stay in the suit or get out of
14 the suit before you know what your
15 compensation is going to be, is that fair,
16 just and reasonable?

17 MR. OLINDE: And I object to the form
18 of the question.

19 MR. MARCELLO: I join in that
20 objection. It's not a fair question.
21 Do you understand the question?

22 THE WITNESS: I'm not sure. By the
23 time he finishes with the question
24 and then everybody butts in, I'm
25 already lost as to what the question

1 is.

2 MR. POWELL: I'll tell you what.

3 I'll agree that you all can object to
4 every question I ask on whatever
5 grounds and that way we won't have a
6 confusing interruption of this
7 witness. Everything I ask you have
8 an objection to under whatever
9 grounds you can come up with later
10 on.

11 MR. MARCELLO: We don't agree to
12 that.

13 MR. POWELL: (CONTINUING)

14 Q I'll repeat it. Do you think a settlement
15 term requiring you to decide to stay in the
16 settlement or get out of the settlement
17 before you know what your compensation is
18 going to be is fair, just and reasonable?

19 A No.

20 Q And that would be true for not only
21 yourself, but every other class member,
22 correct, sir?

23 A Correct.

24 Q Did you agree and participate in the terms
25 of the settlement setting up the categories

1 of fully qualifying landowners and partially
2 qualifying landowners?

3 A Did I agree to the terms?

4 Q Yes, sir.

5 A I would have to say no.

6 Q In fact, you didn't even know those
7 categories were established, did you, until
8 you got the notice?

9 A Until I got the notice. Then I realized
10 that there were two sections, two
11 categories.

12 Q What do you understand is required of a
13 class member who seeks to qualify or seeks
14 to obtain a fully qualifying landowner
15 benefit under these settlement terms?

16 A Having land that actually belongs to them
17 underneath the railroad up to the point of
18 the highway.

19 Q The point of the highway?

20 A Well, whatever the -- from my standpoint,
21 Highway 90, from that portion of that
22 highway to my property is the railroad's
23 right-of-way. I would have to own the
24 property beneath it.

25 Q And what do you understand the settlement to

1 require of you in terms of your proving your
2 ownership of that property?

3 A Having an abstract done of the property and
4 see whether or not the right-of-way was sold
5 or whether you owned the entire section of
6 property.

7 Q And do you understand the settlement terms
8 to require only an abstract?

9 A Either an abstract or a deed.

10 Q And how far back do you understand the
11 settlement to require you to go with your
12 abstract?

13 A From the time the railroad actually
14 purchased the right-of-way from our family
15 in my case.

16 Q Do you understand that the requirements for
17 you are the same for every other class
18 member in terms of proof of ownership?

19 A If they, indeed, fall in my category. If
20 they don't fall in the other category where
21 they're whatever it's called, partial
22 participants. Mine would be the opposite.
23 Mine would be the fact that I owned the
24 property.

25 Q That's an interesting question. Have you

1 done your abstract?

2 A It's already been done.

3 Q Okay. Are you here, then, as a class

4 representative for those landowners that do

5 not own the property under the right-of-way?

6 A Well, they're all in the same suit I'm

7 surmising.

8 Q Do you understand what is required of the

9 other category of landowners that don't show

10 ownership of the land under the

11 right-of-way?

12 A My thoughts on that would be they would have

13 to produce a deed. I'm not sure how that

14 thing works. I'm not exactly sure.

15 Q So you're not here to represent their

16 interest?

17 A Well, I'm sure I am, but I mean have no idea

18 what their specific qualifications are

19 according to their property.

20 Q You are here to represent their interest,

21 but you don't know what the qualifications

22 are for them?

23 A Well, it's a deed showing that you have --

24 God. I'm not sure.

25 Q You don't know?

1 A No.

2 Q When you had your -- did you have an

3 abstract done, you said?

4 A Yes.

5 Q Did you have somebody do that for you?

6 A Yeah. The lawyers did it.

7 Q The lawyers did it?

8 A Yeah.

9 Q You didn't have it done yourself?

10 A No.

11 Q Do you know what the cost was to have that

12 abstract done?

13 A No, sir.

14 Q Have you asked?

15 A No.

16 Q Do you know how much you're going to be

17 receiving from the settlement based upon the

18 abstract that was done for you?

19 A If I have 1600 feet and if all three

20 companies are obligated to pay the 5.50,

21 that's 1600 -- I mean 16.50 a foot. 16

22 times 1600, whatever that is.

23 Q That's what you expect to receive?

24 A Yes, sir.

25 Q So that's 1600 feet times \$16.50 per foot,

1 correct?

2 A Correct.

3 Q And I take it you think that is fair, just
4 and reasonable?

5 A Yes, sir.

6 Q If you get less than 16.50 per foot for your
7 1600 feet, do you think that number will be
8 fair, just and reasonable?

9 A Yes, sir.

10 Q Why?

11 A Because that's what I'll have to accept.

12 Q Why?

13 A What other recourse could I do? I'd have to
14 file a suit as an individual.

15 Q Regardless of what that number is less than
16 16.50 a foot, you think that would be fair,
17 just and reasonable?

18 A Yes, sir.

19 Q Now, for those class members -- well, let me
20 back up. Did you pay your lawyers to have
21 your abstract done?

22 A No, sir.

23 Q Do you understand that once the -- let me
24 back up. Are you aware of any other
25 information other than an abstract that the

1 settlement requires you to provide to the
2 claims administrator?

3 A Not that I know of.

4 Q Nothing else that you know of?

5 A No.

6 (A BREAK IS TAKEN)

7 MR. POWELL: (CONTINUING)

8 Q Mr. Sibille, can you explain to me what the
9 scope of the easement is that is purported
10 to be given to the Telecoms in this
11 settlement?

12 A The scope of the easement?

13 Q Yes, sir.

14 MR. OLINDE: Just so that we still
15 have the agreement that any sort of
16 objections are all reserved, correct?

17 MR. POWELL: Yes.

18 MR. OLINDE: Even as to form and as
19 to responsiveness?

20 MR. POWELL: Yes.

21 MR. POWELL: (CONTINUING)

22 Q Go ahead, sir.

23 A What is the question?

24 Q I'm asking you if you can you explain the
25 scope of the easement that is being

1 purported under the terms of the settlement
2 agreement?

3 A My attorney would know. I have no idea what
4 it would be, sir.

5 Q You don't know?

6 A No, sir.

7 Q So you didn't participate in any
8 negotiations with respect to the scope of
9 the easement?

10 A No, sir.

11 Q Mr. Sibille, I'm going to show you what has
12 been marked as Exhibit 1 with the initials
13 LS purporting to be your initials, all
14 right, sir? And it's styled servitude and
15 right-of-way agreement. I'll ask you, sir,
16 if you have seen that document before.

17 A You want to know if I've seen it before?

18 Q Yes, sir.

19 A No, sir.

20 Q You never have?

21 A No.

22 Q May I walk around beside you and point out
23 some things and ask you some questions about
24 them? Is that all right, sir?

25 A Uh-huh (yes).

1 Q I want you to look with me. This is a
2 two-page exhibit. If you come down about
3 two-thirds of the way down the first page,
4 you see the paragraph that
5 telecommunications facilities have been or
6 shall be installed across the property? You
7 see that?

8 A Uh-huh (yes).

9 Q You do see that, sir?

10 A I see it, yes.

11 Q Let me read something to you that is
12 contained on this document. "The exact
13 location of the servitudes conveyed by this
14 instrument shall be determined the present
15 location of grantee's Telecommunications
16 facilities and the servitudes shall extend
17 for seven and one-half feet on each side of
18 the Telecommunications facilities presently
19 located on the property." Do you have any
20 understanding of what that term of the
21 settlement agreement means?

22 A No.

23 Q The next sentence, "If the existing
24 Telecommunications facilities are located
25 within seven and one-half feet of the edge

1 of the right-of-way, the servitudes shall
2 extend 15 feet inward from the edge of the
3 right-of-way." Do you have any
4 understanding of what that settlement term
5 means in reference to class members?

6 A No.

7 Q And I take it you did not participate in
8 negotiating that term?

9 A No, sir.

10 Q Nor did you agree to that term before it was
11 agreed to?

12 A No.

13 Q You've never agreed to that, have you?

14 A No.

15 Q Okay. Were you aware that Sprint has the
16 option under the terms of this settlement to
17 back out of the settlement after the claim
18 forms have been sent in by the absent class
19 members?

20 A They have the option to back out?

21 Q Yes, sir.

22 A I think so, yeah. I think it was mentioned
23 to me.

24 Q And when was it first mentioned to you?

25 A Or was it mentioned to me? I'm not sure.

1 I'll have to answer it truthfully. I'm not
2 sure. I don't know if it was or not.

3 Q Do you know if there are any criteria within
4 the settlement that Sprint must utilize in
5 determining whether or not they're going to
6 back out of the settlement?

7 A No.

8 Q If there are no -- I want you to assume with
9 me that the settlement does not provide any
10 quantifiable criteria within which Sprint
11 can elect to opt out or to back away, back
12 off from the settlement, get out of the
13 settlement. Assume that with me, okay? You
14 understand what I'm saying? Do you?

15 A Vaguely.

16 Q I want you to understand it. I don't want
17 it to be vague to you. I want you to assume
18 there are no quantifiable criteria --

19 A And that means what?

20 Q That means that there's not a number of opt
21 outs from the settlement that Sprint can
22 utilize and say the opt outs have reached X
23 number or X percent, so therefore we're
24 backing out of the settlement. That's not
25 in this settlement. I want you to assume

1 that for me, okay?

2 A All right.

3 Q If the absent class members were to spend
4 monies to put together abstracts in attempt
5 to navigate the claims process and submit
6 their claim forms and after they have spent
7 the monies and their energies and submission
8 of the claim forms and Sprint then elects to
9 back out of the settlement, not having met
10 any quantifiable criteria, do you think that
11 settlement term is fair, just and reasonable
12 to those absent class members?

13 A I would have to say that their attorney
14 would have to advise them on it. As far as
15 my opinion on it?

16 Q Yes, sir.

17 A I would say yes.

18 Q Why?

19 A Well, I don't know. I can't answer it. I
20 would have to say no then.

21 Q Who all do you understand that will be
22 receiving a release under the terms of this
23 settlement?

24 A Relief or release?

25 Q Release.

1 A Release?

2 Q Yes, sir.

3 A By release what do you mean?

4 Q In exchange for certain consideration, they

5 will no longer be liable for trespass or any

6 other conduct associated with utilization of

7 your property.

8 A So ask the question now that I --

9 Q Who all do you understand to be receiving a

10 release under the terms of this settlement?

11 A The three companies, WorldCom, MCI and

12 Sprint.

13 Q Anybody else?

14 A Not to my knowledge.

15 Q If the settlement releases the railroad or

16 railroads and the railroads are not paying

17 consideration or compensation to the absent

18 class members, if that's the case, is that

19 fair, just and reasonable to the absent

20 class members?

21 A That the railroad is not going to have to

22 pay compensation?

23 Q Yes, sir. If they're getting released?

24 A I don't think so.

25 Q You had mentioned something earlier to me.

1 Then we got bogged down a little bit and
2 perhaps were miscommunicating some. That in
3 connection with the litigation back in 1998,
4 it was your understanding that to be
5 successful in the litigation, you thought it
6 would be necessary to prove you owned the
7 property, correct? You recall that
8 discourse that we had?

9 A In order for me to qualify as a plaintiff, I
10 would have to prove that I, indeed, owned
11 the property?

12 Q Yes, sir.

13 A Yes.

14 Q And that was the case back in 1998?

15 A Uh-huh (yes).

16 Q As far as you know, the settlement terms
17 require that you prove you own the property
18 all the way back to when the railroad got
19 their right-of-way in order for you to
20 qualify for compensation; is that correct?

21 A I think so, yeah.

22 Q So was it your understanding that the
23 settlement terms are the same in terms of
24 what's required of you in proof of ownership
25 of the property as what you understood the

1 requirements were to be back in 1998 to be a
2 class representative and for the litigation
3 of the case itself?

4 A Yes.

5 Q In other words, you understand there was no
6 compromise in the settlement of the
7 requirements of proof of property ownership
8 than what you understood them to be in 1998?

9 A Yeah.

10 MR. POWELL: If you all will give me
11 five minutes, we may be ready to
12 close it up.

13 (A BREAK IS TAKEN)

14 MR. POWELL: (CONTINUING)

15 Q Mr. Sibille, do you know William Kimball?

16 A William Kimball?

17 Q Yes, sir.

18 A No.

19 Q What about H. M. Kimball, Jr.?

20 A It doesn't ring a bell with me.

21 Q Elizabeth Kimball Lewis?

22 A No.

23 Q You had mentioned to me earlier that you
24 were expecting compensation per linear foot
25 out of this settlement and described what

1 your expectations were and what you
2 understood your compensation was to be. Do
3 you have any agreement or understanding as
4 to any monies other than compensation on a
5 linear foot for your services as a class
6 representative?

7 A No, sir.

8 Q You don't expect any compensation for that?

9 A I wasn't told I would get any. I wasn't
10 guaranteed any, no. You mean do I have a
11 written agreement saying I'm supposed to get
12 more? No.

13 Q Or a promise that we'll try to get you some
14 extra money over and above what you're
15 expecting per linear foot for your services
16 as a class rep?

17 A Not really, no.

18 Q When you say not really, that makes me
19 think --

20 A Well, I'm saying if I was to be given
21 anything, I would appreciate it, but I
22 wasn't expecting any, no.

23 Q Are you seeking any?

24 A No.

25 Q You had mentioned earlier that in March of

1 2002 that you had gotten some information
2 from Jimmy Sylvester?

3 A Uh-huh (yes).

4 Q Is that right, sir?

5 A Yes, sir.

6 Q And that was some conversation about what
7 the payment would be under the settlement,
8 right?

9 A Yes, sir.

10 Q Have you had several conversations with Mr.
11 Sylvester about this settlement?

12 A Throughout the four years?

13 Q About the settlement?

14 A Oh, the settlement itself?

15 Q Yes, sir.

16 A The only one I really had was that one. And
17 then after that I talked to him and he said
18 that -- no. When I got the notice in the
19 mail is when I called him and I said,
20 "Whatever information you got was not
21 accurate because here's the accurate
22 information," which would have been
23 basically 5.65.

24 Q You mentioned outside the settlement. Have
25 you had other conversations with Mr.

1 Sylvester --

2 A Well, I --

3 Q Let me finish the question so you will be
4 sure you're answering what I'm asking.
5 Okay?

6 A All right.

7 Q Have you had other conversations with him
8 about this litigation in the four years that
9 you have been a class representative?

10 A Definitely, yeah.

11 Q And who is Mr. Sylvester?

12 A Mr. Sylvester is a deputy clerk of court in
13 the Parish of St. Landry.

14 Q Where this settlement is being proposed?

15 A Yes, sir.

16 Q Did you know Mr. Sylvester before you became
17 class representative?

18 A I've known him for 30 years.

19 Q I'm curious as to why you would have
20 conversations with him throughout the four
21 years you've been class representative about
22 this litigation.

23 A Because he and Mr. Whittington were friends
24 and he spoke to Mr. Whittington
25 periodically. So I had to go to the clerk

1 of court's office every so often and I speak
2 to Jimmy.

3 Q Is he a class member in this litigation?

4 A Not to my knowledge. He may be, but we
5 never discussed it, whether he is or not.

6 Q As far as you know, he is not a class
7 representative?

8 A I didn't say that. I said I don't know.

9 Q I'm asking as far as you know.

10 A As far as I know, yeah. As far as I know.
11 I don't think he is as far as I know. I
12 have no idea.

13 Q Since you were informed of the settlement in
14 the latter part of 2001 and up until the
15 time that you got the notice in the summer
16 of 2002, approximately how many times have
17 you talked to Mr. Whittington?

18 A I'd say about maybe three times. Two or
19 three. You know, it's not a whole lot,
20 whatever it is.

21 Q What about Mr. Marcello? Have you talked to
22 him within that same time frame?

23 A A couple of times probably.

24 Q About the settlement?

25 A Yeah. Well, I wouldn't have any reason to

1 call him otherwise.

2 Q How about Mr. Mangham?

3 A No, sir.

4 Q How about Mr. Pendley?

5 A No, sir.

6 Q Any other lawyers that purportedly were
7 attempting to represent the class?

8 A No, sir.

9 Q Do you have any understanding of -- let me
10 back up and ask it this way. Have you read
11 the objection that has been filed by the
12 McCormick plaintiffs or the McCormicks in
13 this case?

14 A No, sir.

15 Q Have you read any objection that has been
16 filed on this case?

17 A No, sir.

18 Q Do you know that there have been objections
19 that have been lodged as to this settlement?

20 A I understand there have been, yeah.

21 Q But you have not read them or apprised
22 yourself of the content of them?

23 A No, sir.

24 Q Do you not think it important as a class
25 representative and representing the absent

1 class members that you apprise yourself of
2 some of their objections to this settlement?

3 A I left it up to my attorney. I figured if
4 he had to tell me anything, he would.

5 Q You had mentioned somebody named Nagata, I
6 believe?

7 A Mrs. Nagata.

8 Q Tell me who Ms. Nagata is.

9 A She's supposed to be a what you call it, a
10 member of the class action suit from Eunice,
11 Louisiana. I've never met her, you
12 understand, but I know that she was supposed
13 to have been deposed. That's the only
14 reason why I know her name.

15 Q When you say member, you're talking about a
16 class representative?

17 A Class representative.

18 Q What is her first name?

19 A I have no idea.

20 Q Do you know if it's Jenora?

21 A I said I don't know. I have no idea. All I
22 know is Mrs. Nagata.

23 Q And you've not talked to her?

24 A No, sir.

25 Q Have you been told anything at all about the

1 nature or content of the objections that
2 have been filed in this case?

3 A Not specifically, no.

4 Q How about generally?

5 A No.

6 MR. POWELL: All right, sir. Thank
7 you, Mr. Sibille, for coming. I
8 appreciate your time today.

9
10 REPORTER'S NOTE: ALL OBJECTIONS ARE BEING RESERVED
11 INCLUDING AS TO FORM AND RESPONSIVENESS OF THE
12 ANSWER

13
14
15 WITNESS EXCUSED

16 * * * * *

17 (WHEREUPON, THE DEPOSITION CONCLUDED AT 11:20 A.M.)
18
19
20
21
22
23
24
25

ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124

CERTIFICATE


I, Cheryl Venable, Certified Court Reporter, do certify that the foregoing 67 pages of typewritten matter constitute a true and correct transcription of the evidence adduced on the taking of the testimony of

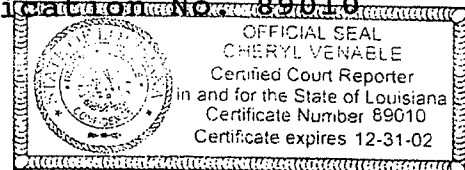
LOWELL SIBILLE

on the 17th day of September, 2002, at Lafayette, Louisiana after the witness had first been properly sworn, as aforesaid.

Further, I am not related to counsel for the plaintiff or counsel for defense, I am in no manner associated with counsel for or any of the interested parties to this litigation, and I am in no way concerned with the outcome thereof.

This the 19th day of September, 2002,
LAFAYETTE, LOUISIANA.


CHERYL VENABLE, CCR
Louisiana Certification No. 89010



ERIN MACKEY
Certified Shorthand Reporter
Post Office Box 2494
Lafayette, Louisiana 70502
(337) 237-4124